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A CHALLENGE TO EXCELLENCE

Local Jails in North Carolina

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THE JAIL STUDY COMMISSION/1969

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THE JAIL STUDY COMMISSION/1969

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THE JAIL STUDY COMMISSION

Charlotte, North Carolina

January 10, 1969

His Excellency
The Governor of North Carolina
State Capitol
Raleigh

Your Excellency:

We have the honor to submit to you, for transmission to the members of the General Assembly of 1969, this report of the Jail Study Commission.

This study has been conducted and this report has been prepared by direction of Resolution 53 of the General Assembly of 1967.

Respectfully submitted,

Harry Alderman
W. G. Clark
William D. Harrill
Thomas B. Hunter
Robert B. Morgan
Marshall A. Rauch
Robert A. Ross
Herbert Small
David Taylor
Frank W. Snepp, Chairman

NOTE ON THE MEMBERSHIP OF THE COMMISSION

Resolution 53 of the General Assembly of 1967 created the Jail Study Commission and provided for a membership of eleven members. The Governor, the President of the Senate, and the Speaker of the House of Representatives each appointed two members. These members were:

Frank W. Snepp, Chairman

William D. Harrill

Thomas B. Hunter

Robert B. Morgan

Marshall A. Rauch

Herbert Small

The remaining five seats on the Commission were assigned to the presidents of five specified organizations. Because the Commission held meetings over a thirteen-month period (from October, 1967 to November, 1968) all of these organizations changed presidents in that time. As a consequence, one of the organizations had two representatives who served as members of the Commission at different times and another had three representatives who served in the same manner. The five organizations and their representatives were:

The Medical Society of North Carolina -- Dr. Robert A. Ross;

The North Carolina Association of County Commissioners -- Fred D. Hauser, L. P. Zachary, and John Morrissey;

The North Carolina League of Municipalities -- John A. Mitchener and David Taylor;

The North Carolina Police Executives Association -- Harry Alderman;

The North Carolina Sheriffs' Association -- W. G. Clark.

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SUMMARY

North Carolina has one of the most progressive State correctional systems in the nation. It is essential that local jails complement the State's system rather than diminish or even harm its capacity to rehabilitate the persons sent to it. Local facilities, therefore, must endeavor to be worthy of this heavy responsibility.

North Carolina has historically relied on local initiative to perform local functions. For this reason, local jails should not, at the present time, come under State control nor should mandatory regional jails be imposed upon the counties. (Rec. No. 1, page 9.)

Some persons can now be sentenced to serve terms longer than thirty days in local jails. This authorization should be ended. (Rec. No. 2, page 10.)

Persons who appeal their convictions and who are not released pending a final decision should be placed in the State system and should receive credit toward any ultimate sentence for the time they spend in custody. (Recs. No. 3 and 4, pages 11 and 12.)

Public drunkenness, as related to alcoholism, cannot be treated in jails. The entire problem should be studied intensively by a special study commission. (Rec. No. 5, page 14.) Meanwhile, persons convicted of public drunkenness should either be released when sober or placed under the Commissioner of Correction. (Rec. No. 6, page 15.)

Mentally ill persons should not be jailed when they require emergency restraint. They should be placed in public hospitals that are equipped to care for them until space in State hospitals can be found. (Rec. No. 7, page 17.)

Release on recognizance and the criminal summons should be used more often in place of bail bonds to keep reliable persons out of jail before trial. (Rec. No. 8, page 21.)

A list of prisoners should be given to judges and solicitors before each term of court so that the prisoners may receive proper consideration. (Rec. No. 9, page 22.)

Persons who would have to stay in jail several months awaiting trial should be able to request that they be tried sooner in another jurisdiction. (Rec. No. 10, page 23.)

In docketing cases for trial, solicitors should place those with defendants confined in jail ahead of those with defendants who are not confined in jail. (Rec. No. 11, page 25.)

Jails should be classified according to the types of prisoners that each is able to hold adequately and decently. (Rec. No. 12, page 28.)

Certain types of prisoners should be physically separated in jails to lessen criminalizing influences. (Rec. No. 13, page 30.)

Sheriffs and jailers should not receive compensation from fees paid to them for feeding their prisoners. (Rec. No. 14, page 31.)

The Jail and Detention Service should be moved from the Department of Public Welfare to another State agency. (Rec. No. 15, page 34.)

Enforcement procedures for the minimum jail standards should be strengthened by (1) empowering an additional Superior Court judge in each district to exercise authority in such cases; (2) including Superior Court judges among the officials who regularly receive copies of inspection reports for local jails; (3) authorizing Superior Court judges to suspend effective dates of jail closing orders to allow local officials to meet the required standards. (Recs. No. 16, 17, and 18, pages 36, 37, and 38.)

Counties should not in the future be permitted to establish district prison farms or houses of correction. (Rec. No. 19, page 39.)

The General Assembly should appropriate $434,000 for the next biennium to aid local governments to improve their detention facilities that do not meet the State's minimum jail standards. (Rec. No. 20, page 39.)

REPORT OF THE JAIL STUDY COMMISSION

I. INTRODUCTION

The county and municipal jail has been an integral part of the administration of justice in the United States since colonial times. In most states as in North Carolina public attention has been turned to local jails only recently to determine whether they meet modern needs and practices.

The turning point in this State began in 1966, when a number of deaths in and escapes from local jails aroused several newspapers to print stories and editorials about the condition of the facilities, which they found to be antiquated, unsanitary, and poorly built in some instances.

Responding to the new public concern, the 1967 General Assembly took two important steps to improve local jails. First, it authorized the development of minimum health and security standards for local detention facilities and set up a procedure for their enforcement by a State agency. Second, it passed a resolution to establish the Jail Study Commission and gave the Commission the authority

> to make a detailed study of existing conditions in local jails and other local confinement and detention facilities in the State with a view to improving the quality of jail administration so that such facilities may provide for the safe custody and humane treatment of offenders and promote their rehabilitation insofar as practicable.*

In October, 1967, this Commission held its first meeting. By its final meeting in November, 1968, the Commission had met twelve times. In the course of those meetings, the Commission visited thirteen detention

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* The resolution is set out in full in the Appendix.

facilities and heard testimony from prominent men in the correctional and other fields including the Commissioner of Correction, the Commissioner of Public Welfare, the Chief of the Jail and Detention Service of the Department of Public Welfare, the Director of the Charlotte Alcoholic Information Center, the Director of the Alcoholism Division of the Department of Mental Health, and the Chief of Psychological Services of the North Carolina Board of Juvenile Correction. In addition to these experts, the Commission received extensive assistance from the Institute of Government and information from other individuals and governmental agencies both inside and outside the State. We wish to express our appreciation to all of those who gave so generously of their time to aid us in our deliberations.

II. LOCAL JAILS IN NORTH CAROLINA

Imprisonment as a punishment for convicted criminals is a fairly recent development of Western law. In colonial America, for example, most crimes were punishable by death or by various forms of physical suffering. Minor offenses brought fines or public humiliation in the stocks or the pillory. Jails were used only to hold persons accused of crimes until a trial determined their guilt or innocence.

During the nineteenth century, reformers introduced the notion that imprisonment in jail should replace hangings and floggings for many offenses because the length of jail sentences could more accurately reflect the seriousness of an offense and offer more hope of repentance or rehabilitation. This reform was accepted by the drafters of the 1868 North Carolina Constitution, which drastically cut the number of capital offenses in the State and increased the number punishable by imprisonment in jail.

One unfortunate effect of this reform was to place a great strain on the existing jails which now had to hold both persons awaiting trial and those already sentenced to terms in the jails. The earliest official survey of jails in North Carolina, made in 1870 by the Board of Public Charities (the ancestor of the present Board of Public Welfare), showed this situation vividly:

> [The jails] seem to have been established to intimidate and deter, than to reform.... As a general thing, our jails are miserably constructed, and there is little or no attention paid to the division and classification of prisoners. Every offender, or even one accused of crime...are [sic] all thrown together in filth and idleness, thereby making the jail a seminary of crime and corruption.... [The] accomodations and

appropriations provided for prisoners by the public contemplate scarce anything beyond the bare necessaries of life and secure confinement...*

To lighten the new burdens on local jails, State governments began to build penitentiaries to hold dangerous and long-term prisoners but in most States, county and municipal facilities have continued to hold the bulk of offenders sentenced to terms under two years. Since 1933, however, North Carolina has taken a different path. Not only does Central Prison in Raleigh (finished in 1885) accept dangerous prisoners from around the State, but the State Department of Corrections operates nearly a hundred prison camps for both felons and misdemeanants sentenced to terms longer than thirty days. Local jails in the State, therefore, have substantially returned to their pre-reform function of holding mainly persons accused of crimes until trial. Upon conviction, most persons (sentenced to imprisonment) serve their sentences in State penal facilities.

In our first few meetings, this Commission visited ten county jails, two municipal lock-ups, and one juvenile detention center. These facilities were chosen to give us a representative sample of jails throughout North Carolina and included jails in large and small, urban and rural counties. In addition, individual members visited their local jails and reported on them to the entire Commission.

From our personal observations, we found that jails vary greatly in their characteristics. The greatest differences appear between older and newer buildings. Several of the older facilities show their age badly. They are filthy, foul-smelling, and poorly maintained structures which cannot even provide secure confinement. The newer jails, at the other

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* Quoted in Aydlett, "The North Carolina State Board of Public Welfare", N. C. HIST. REV. 5-6 (1947).

extreme, give maximum security for all prisoners with the total absence of privacy, the lack of ventilation and lighting, and the bolted-down steel furnishings that such total security requires. Exercise and recreation are non-existent. In one jail, even reading material is denied to all prisoners because some prisoners in the past had stuffed paper in the plumbing. In all jails, idleness is the chief occupation.

Undue emphasis on security is, in our judgment, both unnecessary and harmful because most prisoners awaiting trial in local jails do not present any great danger of escape or violence. It is our understanding that maximum security in most jails is needed for not more than one or two cells. The other cells could and should be minimum security accommodations to avoid the unnecessarily harsh atmosphere that dominates many jails today.

Another common feature of some of the newer jails is an abundance of unused space. Two of the jails we visited illustrate this dramatically. One was one and one-half years old and was built to hold a maximum of 32 prisoners. It held only one prisoner on the day it was visited and had never held more than ten at one time. The other jail, built ten years earlier for eighty prisoners, held ten on the day the Commission visited it. A custodial officer with six years experience there told us that no more than forty persons had ever been held together in that period.

If new jails were planned carefully to avoid building excessive numbers of rooms and if they were built primarily as minimum-security facilities, their construction costs could be reduced substantially without harming the public interest. For counties which always have difficulty in finding money to build new jails, the costs of excessive security and unused space simply represent wasted resources.

As the new minimum jail standards are enforced, the Commission hopes that the undesirable physical conditions that we found will soon be corrected. If physical improvements in jail construction and maintenance were the complete answer, however, this Commission would not have been created. We shall turn our attention, therefore, to the areas that the General Assembly charged us to consider. These include the place of local jails in the State's correctional system, the suitability of local jails for certain kinds of persons now confined in them, and the means by which local jails can better serve the purposes for which they exist.

III. FINDINGS AND RECOMMENDATIONS

Although the State government's present role in corrections is a large one, county and municipal jails are still financed and administered by local governments, which explains the great differences among the jails in the State. A survey of local jails made in 1967 found that jails then in use ranged in age from two to 241 years, with the average being around forty years. Operating expenses varied nearly as much -- from eight to ninety-three cents per county resident per year, with the average being around forty cents.

These large variations among county jails led the Commissioner to consider other ways to divide State and local control over local detention facilities. At present, the State has only two duties toward such facilities: to make and enforce minimum jail standards, and to train local correctional personnel. One proposal we considered would place local jails completely under the control of the State Department of Correction. Another proposal would compel local governments to participate in regional jails that would provide services not presently available. For the reasons we discuss below, we have decided that neither alternative is suitable for North Carolina at the present time.

Four States -- Alaska, Connecticut, Delaware, and Rhode Island -- place the administration of local jails in a State Agency. This centralization of control has, in turn, given these States many advantages over the other forty-six in terms of obtaining greater financial support and maintaining higher administrative standards. Three of these States have much smaller areas than does North Carolina, however, and the fourth has a much smaller population. Because none of them is comparable to this State, we cannot draw conclusions

from their experiences that would guide us in recommending that North Carolina follow their lead at the present time. In the absence of comparable experiences, we do not recommend a change from present practice in this area.

Locally-administered regional jails are a more attractive alternative to our present system. In fact, regional facilities have been legally possible since 1933 when the General Assembly passed what is now G.S. 153-53.7 to enable adjacent counties to construct, finance, and operate together detention facilities. This statute allows counties which cannot afford the costs of a new or improved jail to join other counties to obtain one that is better than any single county could build and maintain itself. This method, furthermore, does not raise the spectre of State control which many persons fear.

Regional jails do raise other problems, however. Greater distances would be involved than at present for lawyers and relatives to travel to visit prisoners. Transporting the prisoners themselves to and from courthouses would be more difficult than it is now. It is problems like these that the Commission wishes to avoid imposing on the counties against their will. We have decided, therefore, that regional jails should be available for use on a voluntary, rather than on a mandatory basis. Since G.S. 153-53.7 is already available on this basis, we find no need to seek additional legislation. We recognize, however, that the enforcement of the new minimum jail standards will soon raise the cost of maintaining jails for many counties and strongly suggest that regional jails might be the best answer for some of these counties if they will only take the initiative in forming them.

Regional detention facilities could be useful not only as general purpose jails but also for special purposes that are not presently satisfied

in many areas of the State. Alcoholic detoxification centers and juvenile detention homes are two examples of these purposes that are now beyond the budgets of the smaller counties. Several of them acting together could bring these necessary services to their residents at a minimal cost to each participating county.

RECOMMENDATION NO. 1:

> We recommend that the present division of governmental authority in the supervision and administration of local detention facilities remain unchanged so that the role of the State be limited to the setting and enforcing of State standards and to the providing of training to local jail personnel.

Reducing the Numbers of Persons in Jail

The Commission believes that local jails should be used only to hold persons awaiting trial or serving very short sentences. We found in our investigations, however, that several other kinds of persons are held in jails because more suitable places are denied to them. In our judgment, North Carolina must meet its responsibility to provide such places to those in need of them.

1. Thirty-Day Jail Sentence Limitation. One of the primary goals of imprisonment is the rehabilitation of convicted criminals so that they may become, at the expiration of their sentences, worthy members of society. We found that jails in this State have few, if any, rehabilitative programs because under North Carolina law, the State Department of Correction has chief responsibility for developing rehabilitative programs to suit the needs of each prisoner sent to its facilities.

The present division between a sentence served in the local jail and one served in State facilities is thirty days. Since rehabilitative programs

require at least a month to be established, we believe that this division is a good one. We do object to one feature of the present law, G.S. 148-32, which gives judges the authority to order persons sentenced for longer than thirty days to serve their terms in local jails to provide labor on county and municipal property. This authorization appears to be contrary to the policy of furthering rehabilitation that underlies the State correctional system and denies to persons so sentenced the possible benefits of such services. We believe that this judicial discretion should be ended. This could be done, moreover, without denying local governments convict labor because the State Department of Correction is authorized under G.S. 148-26(e) to contract with local governmental units for the hire of prisoners to perform types of labor appropriate to the principle of rehabilitation. This statute, together with work release programs, should be sufficient to supply convict labor to those areas that now rely upon it.

RECOMMENDATION NO. 2:

> We recommend that no person be sentenced to a term of imprisonment in a local detention facility if the term is for longer than thirty days except under the work release provision of the Probation Act.

2. Prisoners who Appeal. Most persons who appeal from a conviction are released on bond under G.S. 15-183, which grants the right of bail to any person convicted and sentenced for a misdemeanor or a non-capital felony. Persons unable to raise the necessary bond must wait in county jail until their appeals are decided, a procedure that often requires a period of six months or longer after the date of the initial conviction.

This Commission recommends that all convicted persons be removed from local jails and transferred to the State correctional system immediately after sentencing if the sentences are longer than thirty days and do not involve the work release provision of the Probation Act. Persons appealing their convictions and who can raise their bail money would, of course, be able to be released until their appeals are decided.

Persons who cannot obtain release until their appeals are decided would, in the State correctional system, be able to receive a meaningful introduction to the rehabilitative services available to them should their appeals eventually fail. Local jails would benefit from this provision by being rid of persons who have received long sentences and who presently pose serious security and disciplinary problems for the local units.

RECOMMENDATION NO. 3:

> We recommend that persons convicted of a crime and sentenced to a term longer than thirty days imprisonment but not under the work release provision of the Probation Act, and who appeal their sentence but are not released pending the outcome of their appeals, be placed in the custody of the State Department of Correction immediately after sentencing.

Many States require that persons who remain in official custody while appealing their convictions be given credit toward their sentences for the time they spend awaiting the outcome of their appeals. A new federal statute requires that the federal system give them credit for all days spent in custody in connection with the offenses for which they were sentenced. The American Bar Association's minimum sentencing standards require that convicted persons receive credit for all time spent in custody as a result of the criminal charges for which they are sentenced or as a result of the conduct on which such charges are based.

A North Carolina statute, G.S. 15-184, provides that an appeal to the Supreme Court stays the execution of the judgment "during the pendency of the appeal", but if the appeal is withdrawn before it is considered by the Court, the sentence shall begin on the day that the person is committed to the sheriff. Although the Supreme Court has ordered credit be given for time spent on appeal in some cases, it has denied credit in others, leading a federal court to state that it would "deem the language of the statute controlling." (Anders v. Turner, 379 F2d 46 [1967])

The Commission believes that the confusion on this issue in North Carolina should be resolved by requiring the Department of Correction to give credit on the ultimate sentence for the time spent in detention pending the decision of an appeal, provided that the prisoner complies with the rules and regulations of the Department while in its custody. While this proposal might have the effect of encouraging more persons to take appeals from their convictions, we believe that this step is necessary in order to guard against the possibility that some innocent persons might remain silent rather than risk many months in jail that will not count toward release should their appeals ultimately fail. By giving credit for time spent in custody awaiting the outcome of appeals, North Carolina can remove one more barrier between the rich who can free themselves on bail and the poor who cannot.

RECOMMENDATION NO. 4:

> We recommend that persons in official custody who appeal their convictions be given credit toward any ultimate sentence for the time that they spend in custody awaiting the disposition of their appeals, if they abide by the rules and regulations of the Department of Corrections.

3. Penalties for Public Drunkenness. The problem of alcoholism and its criminal cousin, public drunkenness, is an enormous one in North Carolina

as it is elsewhere in the nation. It is a grave concern not only to the persons involved and to their families, but also to society and its correctional institutions.

Estimates indicate that two to four percent of the State's population, between 100,000 and 175,000 persons, are alcoholics. Many of these persons are arrested time after time for public drunkenness. One-third of all arrests in the State and more than one-half of those in Charlotte are for the offense of public drunkenness. Local jails are filled with compulsive drinkers, for whom jails are merely "sobering-up" stations between alcoholic stupors.

Although many doctors consider alcoholism to be a disease and some lower federal courts had indicated that such "diseased" persons could not be jailed, the United States Supreme Court recently decided (in Powell v. Texas, 392 U.S. 514, 20 L.Ed. 2d 1254, 88 S.Ct. 2145 [1968]) that jailing a chronic alcoholic for public drunkenness is constitutional. This Commission, which had initially relied on the earlier cases, was obliged to re-examine the question of the proper treatment of the public drunkenness offenders in the light of the Powell case.

Prior to 1967, the crime of public drunkenness was punishable in most North Carolina counties by a fine of not more than fifty dollars or imprisonment for not more than thirty days. The 1967 General Assembly established a State-wide penalty: for the first offense, a fifty dollar fine or not more than twenty days in jail; for subsequent offenses within a twelve-month period, either the same penalties as for a first offense or an indeterminate one-to-six month term in the State correctional system. The practical effect

of this sentencing reform has been to overburden the jails with persons serving 20 day sentences who, upon release, go out to drink and to be arrested again.*

This Commission firmly believes that imprisonment is no answer to the State's alcoholic problem. This is a complex social disorder that will only be solved, if at all, by an application of massive State funds and firm public support. The members of this Commission, however, have had neither the time nor the resources to devote to this problem the attention it requires. At the same time, we recognize the pressing need for such an intensive study before alcoholism in this State becomes even more critical and insoluble than it presently is. We urge most strongly, therefore, that the General Assembly of 1969 attack this problem directly by creating a study commission that can devote all of its attention to finding solutions that it can present to the subsequent session of the legislature.

RECOMMENDATION NO. 5:

> We recommend that the General Assembly of 1969 authorize the creation of a special commission to study the problems of alcoholism and public drunkenness in North Carolina and to propose solutions for them.

Until proper treatment facilities are available, the correctional system will necessarily continue to serve as the social institution responsible for persons convicted of public drunkenness. If anything can be done for alcoholics within the correctional system it should be done. In our judgment, the 20 day

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* The 1967 General Assembly also created (in G.S. Ch. 122, Art. 7A) the defense of "chronic alcoholism" to a charge of public drunkenness, under which the court may retain jurisdiction for two years over anyone so acquitted for treatment purposes. This defense, while seldom used, does allow alcoholics charged with public drunkenness to stay out of jail if they so wish.

jail sentence is useless both as a deterrent and as a method to achieve rehabilitation. We believe, therefore, that persons arrested for public drunkenness should be allowed to plead guilty to the charge of public drunkenness and, if it is their first conviction in a 12-month period, to be released as soon as they are sober. If they are convicted of a subsequent offense in a 12-month period, they should be committed to the State correctional system for a one-to-six month indeterminate sentence, during which their problem could be diagnosed and treatment begun, insofar as the resources of the correctional system permit. The present provisions of G.S. 14-335, which provide for either a 20-day jail sentence or an indeterminate sentence in the custody of the Commissioner of Correction for second or subsequent convictions, should be amended to delete the 20-day alternative.

RECOMMENDATION NO. 6:

> We recommend that persons convicted of public drunkenness for the first time in a twelve month period and who plead guilty be released upon reaching sobriety; that persons convicted for subsequent offenses in a twelve month period be sentenced to an indeterminate one-to-six month sentence in the custody of the Commissioner of Correction, and that the present 20 day sentencing alternative for such subsequent offenses be deleted.

4. Detention of the Mentally Ill. Mentally ill persons may now be incarcerated in local jails under two procedures. If they are arrested for committing a crime, they are jailed pending trial like anyone else. Mental illness may keep one out of jail only after a trial has established such a condition. Civil commitment to jail may be made under G.S. 122-61, which provides that a person who is found by a clerk of court to be so deranged as to endanger himself or others may be placed in jail until room is available for him at a State hospital for the mentally disturbed. The statute

also provides that a jail may be used for this purpose only "because of and during an extreme emergency", but the Commission found that more persons are jailed under it than the narrowness of the exception would seem to permit. From July, 1967 to July, 1968, for example, at least 1,585 mental patients were reported to have been held in jails. Since only 67 of the State's 100 counties reported this information, the actual number was probably substantially higher. From 1949 to 1968, an annual average of 1,300 mental patients have been reported as having been held in North Carolina jails. The explanation for this widespread violation of the intent, if not the letter of the law seems to lie in the common refusal of general hospitals to provide temporary accommodations for the mentally ill until space in State hospitals is found for them.

The Commission believes that no mentally ill person should ever be placed in a jail unless he is charged with a criminal offense. A person who is already mentally disturbed can only be further harmed by exposure to a jail. Any such harm is even more unjustified when nearly every part of the State has access to a public hospital that could control disruptive behavior much better than a jail through the use of sedative drugs without further damaging the person's mental condition. Since public hospitals have a moral, if not a legal, duty to accept all persons who require treatment for physical ailments and injuries, we believe that they should have a duty to accept the mentally disturbed temporarily until more appropriate arrangements can be made elsewhere.

We were offered two reasons to explain the refusal of public hospitals to receive the mentally ill. Many hospitals, we were told, do not have the security wards and equipment to restrain the potentially dangerous person.

Our response is that modern drugs are capable of tranquillizing any such person, and it is precisely in the hospital that the skills to administer them are found. Even if drugs are not the complete answer, we believe that all hospitals should have security beds and other restraints as part of their normal equipment, and that the possession of such items should be a condition for their licensing by the North Carolina Medical Care Commission.

The second reason offered by the hospitals is the fear on the part of their administrators that they would not be reimbursed for the services they would provide a mentally ill patient who is awaiting transferral to another facility. To meet this objection, we would require the county of which such a patient is a resident to pay the expenses involved. The county would then be reimbursed by the family or the estate of the person involved.

The fault for the present dependence on jails to provide emergency shelter for the mentally ill cannot be fully placed on the hospitals, however. The admission procedures of the State hospitals must also be faulted for requiring an interim detention elsewhere in the community before space can be found in them. We suggest, therefore, without recommending specific action that the State Department of Mental Health devise speedier means to accommodate emergency commitments, both to lessen the burden on public hospitals and to eliminate entirely the need to use jails for this improper purpose.

RECOMMENDATION NO. 7:

We recommend

(a) that an emergency commitment procedure be designed to authorize the clerk of superior court to direct local public hospitals to accept mentally ill persons until a State institution for the mentally ill can admit them, with the public hospitals to be reimbursed for their expenses by the county of which each person so received is a resident;

(b) that public hospitals be required, as a condition for licensing by the North Carolina Medical Care Commission, to have security beds and other restraint equipment for the use of such persons as they may be required by law to receive.

5. Alternatives to Local Detention. The primary purpose of jails in North Carolina is to hold persons accused of crimes until their trial, to ensure that they will appear for trial. All persons who do not endanger the community and who would likely appear for trial if allowed to remain in the community should be kept out of jail for their own and for society's benefit. The accused person out of jail can stay with his family, work at his job, and obtain legal assistance to help prepare his defense to the charges against him. Accused persons in jail often lose their jobs, see their families suffer financial hardship, and lack equivalent opportunities to defend themselves in court.

Pre-trial release today is usually available through the bail system, in which the arraigning judge sets a money bond at a figure he thinks will be adequate to bring the accused into court for trial. If the accused person has money, he can put up the amount of the bond or pay a percentage of the bond to a bondsman who puts up the bond for him. Those persons who do not have enough money for the bondsman's fee must wait out the time before trial in jail, with all the disadvantages mentioned above. This is one area of criminal justice where the poor person is unable to enjoy the full benefits of the law.

Bail bonds are levied in most cases without a full consideration of the accused persons' reliability, so that persons who would show up for trial if released but who cannot raise their bail bonds are obliged to stay in jail. Several experiments have been made in recent years to enable poor but reliable

accused persons to stay out of jail before trial without posting money bonds. They have been released either on their written promise to appear for trial or on the written promises of others to bring them to trial. These experiments have uniformly shown that persons released without posting cash bonds appear for trial as often as those released on cash bonds, if the persons so released are first screened for their reliability.*

Pre-trial release also reduces the maintenance costs of jails since it costs $3 to $9 a day to house, feed, and guard each prisoner in local detention facilities. Outside jails, such persons can support themselves and their families as well as avoid the idleness and criminalizing effects of jails on persons who are considered innocent until proven guilty in court. When jail detention is not necessary to obtain trial appearances, it is a waste of both monetary and human resources to use it unnecessarily.

North Carolina law provides two ways besides money bonds to permit the pre-trial release of persons accused of crime, the criminal summons and the release on recognizance. The criminal summons is similar in form to the citation, which is often given for minor traffic offenses. Unlike the citation, however, the summons has the legal effect of an arrest warrant so that disobeying the summons is itself a criminal offense. The summons is most useful for minor offenses but it can as well be used for serious misdemeanors if the accused person is well known in the community and unlikely to flee before trial. When a summons is given, the recipient is neither arrested nor taken to jail. The statute, G.S. 15-20, provides that a summons may be issued by any officer authorized to issue arrest warrants when "he has reasonable ground to believe that the person accused will appear in response" to it.

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* For a list of the jurisdictions with bail projects of this type as of August, 1966, see Institute on the Operation of Pre-trial Release Projects, Bail and Summons: 1965 xiv (1966).

The second alternative, release on recognizance, is authorized by G.S. 15-103.1 for any defendant in a criminal case other than a capital felony "if it appears likely that he will appear and surrender himself to the jurisdiction of the court at the proper time." The likelihood of this occurrence is determined from information about the accused person, his background, and other relevant factors. If a person is found to be reliable, he may either be released under this statute without further procedure or he may be obliged to sign an unsecured appearance bond which he would only pay if he failed to appear for trial at the scheduled time. In addition, failure to appear constitutes a misdemeanor in itself. Because release on recognizance is permitted only for those considered to be reliable while release on bail is regularly available for most persons, there is reason to believe that those released without a money bond will more often appear for trial than those released on a money bond.

Despite the legality of both the summons and release on recognizance in North Carolina, neither device is commonly used in the State. We attribute this disappointing response to a general lack of understanding about them among the magistrates and judges of the State, as well as to the reluctance of many to alter traditional practices without compelling reason to do so. We believe, therefore, that the primary objective now is to acquaint the judiciary with the disadvantages and unnecessary costs of the money bond, together with the advantages that would come from a wider use of the criminal summons and release on recognizance. This educational task could best be performed by the Chief Judge of each district court, by establishing for his subordinate magistrates and judges binding policies for the use of these new methods of pre-trial release. By having to follow these policies,

the judiciary will begin to understand and evaluate them. More importantly, however, many persons who must now spend long weeks or months in jails awaiting trial for lack of resources to make bail should be able to obtain release under the new procedures for the first time.

RECOMMENDATION NO. 8:

> We recommend that the Chief Judge of each district court be directed to formulate a policy, binding upon the district court judges and magistrates within his district, containing standards for the use of release on recognizance, the use of unsecured appearance bonds, the use and amounts of secured appearance bonds, and the use of criminal summonses in place of arrest warrants.

6. Determining Proper Detention. If the recommendations of this Commission to decrease the numbers and kinds of persons held in local jails are accepted, the problem of enforcing them on the local level will arise. To facilitate this process, a list of all persons held in local jails could be sent to each judge at the beginning of each term of civil court and to each judge and solicitor at the beginning of each term of criminal court. The list should show the prisoners' ages, the charges against them or the reasons for their confinement, and the length of time they have been confined. Such a list is necessary because, at present, a judge has no information about the persons being held in jail except as they are presented before him. By having a list, he could possibly release some on personal recognizance or unsecured appearance bonds, transfer improperly detained individuals to more suitable facilities, and arrange with the solicitor to try first those who have been detained the longest.

RECOMMENDATION NO. 9:

We recommend that the sheriff, or the person in charge of the county jail, deliver to the judge at each regular civil court term and to the judge and solicitor at each term of criminal court a list of all persons confined in that facility, including their names, ages, lengths of time in jail, and the offenses or other reasons for which they are confined.

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Reducing the Time Persons Spend in Jail

A substantial number of persons now held in local jails could remain in the community before trial if the procedures discussed for Recommendation 8, above, were widely used. For those persons who could not be released before trial, however, other measures should be taken to reduce the time that some of them must now waste in jail awaiting the trial that will determine their guilt or innocence. Shortening the period of pre-trial detention could only improve the operation of justice and quicken the return of the innocent to their families and communities.

1. Right to Venue Change. The Commission found in its visits to local jails that prisoners in smaller counties must often wait many months for trial because terms of criminal courts convene in those counties only twice a year. Persons arrested between terms and not released until trial must spend the intervening time in jail. Not only does this result in a loss of time and of income for those involved, but it also raises the question of whether such persons are being denied their right under the Sixth Amendment of the U.S. Constitution to a "speedy trial".

As a practical matter, the small population of many North Carolina counties may justify infrequent court terms. We believe, however, that the right of all accused persons to a speedy trial as well as the unnecessary costs and hardships that extended detention involves indicate a need to provide speedier trials.

North Carolina, together with other States, generally tries a person for an offense in the county where the crime was committed. The General Assembly, however, may authorize deviations from this venue pattern whenever it wishes. In 1906, for example, the Supreme Court upheld a statute which removed venue in lynching cases from the county where the crime occurred and placed it in an adjoining county. In so doing, the Court approved the principle that "all courts otherwise competent to try an offense should be competent to try it, irrespectively of the place where it was committed, the place of trial being determined by the convenience of the Court, the witnesses, and the person accused." (State v. Lewis, 142 N.C. 492, 499. Emphasis added.)

We believe that persons accused of crimes who cannot gain release from jail before trial should not have to wait longer than sixty days for their trial. If criminal court will not be held within that period in the county where the crime occurred, such persons should be able to request that they be tried in a county which will have a term of criminal court within the sixty days. This would benefit both the persons involved and the counties by avoiding the heavy expenses of maintaining prisoners for long periods between court sessions.

RECOMMENDATION NO. 10:

> We recommend that a person unable to obtain release from jail before trial shall have the right to obtain a change in venue if no term of superior court is scheduled to be

convened in the county in which he is being held within sixty days from the date that he files a petition for such change with the senior regular resident superior court judge or the presiding superior court judge of the district in which the jail is located.

2. Docketing Cases for Trial. For any particular term of criminal court in every county, some persons await trial in jail and others await trial at home while pursuing their regular activities. By trying those persons in jail before those in the community, the Commission believes that several advantages are obtained. Because those in jail would not wait as long as some do now, the guilty would be convicted sooner, the innocent would be freed sooner, and jail costs would be reduced. In addition, this procedure would reduce the inequality that now results when two persons, one who awaited trial in jail and the other outside of jail, receive the same prison term following conviction. Since no credit is given for time spent in jail before trial, the pre-trial prisoner actually loses his liberty for a longer period of time than does the one who was free until trial.

The district solicitor has the duty of scheduling trial dates for forthcoming court terms. While some solicitors currently do docket jail cases before non-jail cases, the practice is not consistently followed in the State. We believe, therefore, that the benefits flowing from this practice are sufficiently important to justify its State-wide observance.

We recognize, however, that a solicitor must retain some discretion in docketing cases for trial. Some defendants charged with serious felonies but free on bond should be tried ahead of persons in jail in order to safeguard the community from their committing similar offenses before trial. Grand juries sometimes do not return bills of indictment against persons in jail before the court convenes, so that the solicitor must proceed with

other cases. Other examples can be cited to indicate the need for solicitorial discretion in this area. We anticipate, however, that such deviations will not be common and that the benefits obtained from the practice we recommend will be substantial.

RECOMMENDATION NO. 11:

> We recommend that solicitors, in docketing cases for trial, give priority to cases involving defendants being held in local detention facilities over cases involving defendants who are free until trial, except for special exceptions approved by the court.

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Improving the Correctional Function of Jails

Since the most proper purpose of local jails is, in our judgment, the detention of persons awaiting trial, we have recommended so far in this report that fewer persons be jailed and that those put into local jails be tried as soon as possible. These recommendations reflect our basic belief that local detention facilities have no positive role to play in the rehabilitation and correction of prisoners because they only hold persons who have not yet been convicted of any crime.

It is a fact, however, that many persons who await trial in jail are convicted of the crimes charged against them and are sentenced to terms in the State correctional system. For these persons, the local jail is their first introduction to the correctional system and their experience in jail

may well shape their attitudes toward all future confinement. If they are corrupted or otherwise injured by jail, they may carry such scars through the State facilities and back into the community. If their jail experience is a neutral one, they are not handicapped by it before they reach the State system where the correctional and rehabilitative services available there can at least attempt to help them become worthy members of society.

It is very important, therefore, that local jails be built and operated to have a neutral effect on those held within them. The minimum jail standards now in effect are an essential contribution to this goal, but we believe that other improvements in jail facilities are necessary to fully support the State's efforts toward rehabilitation.

1. Certification of Jails. The minimum jail standards require that jails maintain certain levels of security and care for all prisoners. As the title itself indicates, however, only minimum levels will be expected so that the quality of local jails will continue to vary considerably from place to place. This variation is both necessary and proper because the needs and the financial capacities of the hundred counties are quite different. At the same time, it must also be remembered that persons placed in jails have dissimilar needs and characteristics. If jails must continue to differ in quality, then they will necessarily have differing effects on those exposed to them. The better jails will be able to hold all types of persons without harm to any of them. Other facilities, however, may be adequate for some types but potentially harmful to others. Jails suitable for men, as an example, might be unfit to hold women or juveniles. Buildings secure enough for persons accused of misdemeanors might be too insecure for

persons accused of more violent crimes. Facilities capable of holding twenty in reasonable safety might be incapable of holding thirty under the same conditions.

To provide for this circumstance, we believe that a classification system could be devised to select local detention facilities according to their ability to hold various types and numbers of prisoners. Under this system, the Jail and Detention Service would draw up special standards which it would apply to local jails as part of its present inspection procedures. These standards would cover the special needs of juveniles (children under 16 years in age), youthful offenders (persons 16 to 21 years in age), women, men awaiting trial, men sentenced to terms under thirty days, and persons on work release under the Probation Act. Each facility would be certified by the Jail and Detention Service to hold the number of prisoners in each category that it can hold with decency and safety. A facility that is not certified to hold any persons of a certain category or which receives a greater number than it is certified to hold would be required to transfer such persons to a certified facility within a reasonable period of time (e.g., twenty-four hours).

A certification program similar to the one outlined in this section would have several advantages over the present inspection system. The Jail and Detention Service would have greater flexibility in enforcing jail standards beyond the drastic measure of closing a defective facility altogether. A jail could remain open for some kinds of prisoners but be closed to others. In such cases, local governmental officials would have at least three options. They could improve their jail to meet the required standards. Either alone or in concert with other local governments, they

could build a new facility for all prisoners or for only the non-certified kinds (a juvenile detention home, for example). Or they could contract with nearby localities with certified facilities for their non-certified prisoners. With these options available, local governments should have no difficulty in holding all prisoners safely and decently without overburdening or endangering the community.

RECOMMENDATION NO. 12:

> We recommend that the Jail and Detention Service certify local detention facilities as adequate or inadequate to hold the following categories of defendants or prisoners: juveniles, youthful offenders, women, men awaiting trial, prisoners sentenced to confinement in jail, and prisoners on the work release provisions of the Probation Act.

2. Separation of Prisoners. The detention of juveniles in local jails continues in North Carolina because of the lack of adequate juvenile detention facilities in the State. Only seven of the hundred counties now operate special juvenile homes, despite a statutory prohibition until 1967 on placing juveniles in jails. The 1967 General Assembly amended that statute, G.S. 110-30, to permit a juvenile court judge to place a child under sixteen in jail if he believes "there is sufficient need for secure restraint" and "there are no other adequate facilities available". In the last fiscal year (July 1, 1967 to June 30, 1968), at least 660 children were held in county jails.

The same statute requires that children jailed under its authority be placed "in any section of a jail which is so arranged and maintained that, while in such section, the child cannot converse with, see or be seen by, inmates placed in the jail" for other reasons. Despite this

requirement, only 27 counties provide adequate separation for juveniles so that in most jails they are placed in the same area or even in the same cells with adults accused or convicted of crimes. This situation is, in our judgment, an intolerable one.

The most desirable solution would be the removal of juveniles entirely from local jails, by providing them special facilities similar to the full-custody regional detention centers recommended by the State Board of Juvenile Correction. Because the Governor's Council on Juvenile Crime and Delinquency is also engaged in this area, we believe that we should defer to its more systematic and comprehensive study of juvenile corrections in making specific recommendations on this important question. We do, however, strongly condemn the present reliance on jails for the detention of children under any circumstances.

Until better facilities are available, the present law requiring separate and private quarters in jails for juveniles is one that should be strictly enforced by the Jail and Detention Service and other State authorities. In addition, we believe that the requirement of separate quarters for juveniles could well be extended to other categories of prisoners who also are threatened by being too close to more experienced prisoners. Women, for example, are still kept in some jails in open cells that are in full view of male guards and male prisoners and are thus denied the privacy and decency that society demands elsewhere. Persons arrested for minor misdemeanors are often placed in cells with persons accused of major felonies. Prisoners awaiting trial are kept with those already convicted of crimes. By requiring the physical separation of these

different categories of prisoners, it may be possible to prevent or hinder the transmission of undesirable attitudes and practices that presently occur freely in local jails.

RECOMMENDATION NO. 13:

> We recommend that juveniles and youthful offenders be confined in compartments that are separated and isolated from those holding adult prisoners; that women be confined in quarters that are separated and isolated from those holding male prisoners; that persons awaiting trial be separated from those convicted of an offense; and that accused misdemeanants be separated from accused felons.

3. Compensation of Jailers. The Commission found that sheriffs and jailers in some areas of the State, thirty-four counties in all, receive a daily allowance or fee for each prisoner in jail, from which they pay for the food provided to their prisoners. Any part of the fee which they do not spend for food they may keep for themselves as part of their regular compensation. We believe that this practice encourages these public officials to economize in fulfilling their duties to their prisoners in order to realize personal gain. Furthermore, these officials are provided a motive to increase the numbers of prisoners under their authority and to extend the periods that these prisoners remain in jail. While any such abuses are undoubtedly rare in practice, they are nonetheless available under the present law.

It is paradoxical that this archaic form of compensation for public officials still survives at a time when high standards of performance are being required in other areas of jail administration because this method of compensation can only deter persons with professional abilities and standards from accepting positions of responsibility which have such

uncertain financial returns. Only with these persons will local jails be able to meet the levels of competence demanded of them.

In our judgment, it is imperative that the officials who administer local detention facilities receive their full compensation from salaries equal to their responsibilities and from no other source.

RECOMMENDATION NO. 14:

> We recommend that the use of food allowance fees for the compensation of sheriffs and jailers be abolished.

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Improving State and Local Cooperation for Local Jails

As we have noted earlier, neither the extension of State control over local jails nor the creation of mandatory regional jails is presently a feasible solution to the problems of North Carolina's jails. Our best course is to retain the present division of authority between State and local governments, improve the points where it is weak, and try to make it work. By doing so, we will retain the best parts of the past and shape them into useful and usable guides for the future. With intelligent and voluntary cooperation between the two levels of State government, North Carolina can achieve one of the best local detention systems in the nation.

1. The Jail and Detention Service. The Board of Public Welfare has had general inspection powers over local detention facilities since its predecessor, the Board of Public Charities, was given this authority in

1868 by the statute now codified as G.S. 108-5. Although this authority was seldom used until recently, the 1967 General Assembly, in authorizing the development and enforcement of minimum jail standards, followed historical precedent in assigning these tasks to the Commissioner of Public Welfare and to the Jail and Detention Service of the Department of Public Welfare. In our judgment, however, historic continuity is not a sufficient reason in itself to retain the inspection of local jails in the Department of Public Welfare if there are compelling reasons to place it elsewhere. We believe that such reasons exist.

In the meetings of the Commission, we have become familiar with the many difficulties that the Jail and Inspection Service has encountered in performing the duties given it by the General Assembly. It is necessary to state that some of its problems have been an unfortunate result of the Service's position as part of the Department of Public Welfare. We emphasize, however, that responsibility for such problems does not lie with the Board of Public Welfare, with the Department of Public Welfare, or with any individual. It lies, rather, with the unwarranted distaste that many persons have toward the programs and policies of the Department of Public Welfare. Our concern at the present time cannot be with the correction of this common opinion but with the difficulties that this attitude causes for the Jail and Detention Service in fulfilling its statutory responsibilities.

We find that there are two reasons why the State could best be served by the Service being placed in an agency other than the one where it is now. At the present time, jail inspectors find that their advice is often unwanted and unheeded by local officials because the Service is tied, in the public's mind, with unrelated and less popular programs of the Department

of Public Welfare. If the Service were put elsewhere, then this factor at least would not diminish in advance the influence of its personnel in obtaining improvements in local jails.

The second reason is more complicated, in that it is a consequence of the multi-purpose nature of the Department of Public Welfare. The Department is presently composed of twenty-two divisions -- of which the Service is one -- requiring the services of 2,500 State and local employees and the expenditure of many millions of dollars annually. In any such organization, certain programs are more central to its operation than are others, and when a peripheral function threatens to conflict with the needs of a central program, the organization correctly protects its more vital interests by de-emphasizing the lesser program. In practical terms, we believe that the jail inspection program could, in exposing inadequate jail conditions, arouse controversy on the local level that might upset the Department's relations with local officials whose cooperation is essential for the Department's important programs in public assistance and child welfare. If the Department continues to contain the Jail and Detention Service, it could be faced in the future with a situation where it would wish to avoid taking disruptive action in the enforcement of jail standards in order to retain local support for its other programs. In this manner, jail improvements in some places could be delayed for many years and thereby thwart the General Assembly's intent, as shown by its authorization of minimum jail standards in 1967, to have all local detention facilities meet those standards as rapidly as possible.

We believe that such potential conflicts between different programs of the Department of Public Welfare should be avoided ahead of time by transferring the Jail and Detention Service to another administrative

agency. In this way, North Carolina can be assured of having both an effective jail inspection program and a Department of Public Welfare that will serve, as it does not, the needs of all the citizens of this State.

While, in our judgment, the Jail and Detention Service should become an autonomous unit in a State agency that will not present the problems that the Service encounters in its present position, we leave to the General Assembly the choice of which agency would be most appropriate for this purpose. The Office of the Attorney General, with which the Service would share law-enforcement clients, or the Department of Administration, with which the Service shares supervisory and enforcement responsibilities, would both be suitable choices, however.

RECOMMENDATION NO. 15:

> We recommend that the Jail and Detention Service be made a separate and independent unit of an existing State agency other than the one of which it is presently a part, and that the Chief of the Jail and Detention Service be responsible directly to the administrative head of such agency.

2. Enforcement of Minimum Standards. The 1967 General Assembly, in G.S. 153-53.1, established an enforcement procedure for minimum jail standards that would operate whenever a jail inspector finds violations of the standards. Each local detention facility will be inspected semi-annually, after which the inspector sends a written report of his findings to the local governing body (the board of county commissioners or the municipal council) and to other local officials responsible for the facility (the sheriff, jailer, or chief of police). The governing body should consider the report at its next regular public meeting and is responsible for initiating corrective action wherever the inspector finds violations.

If the inspector finds violations that jeopardize the safe custody, safety, health, or welfare of the prisoners, the Commissioner of Public Welfare is authorized to take more direct action. He may notify the governing body and other officials about the defective conditions and send a copy of the notice to the senior regular resident superior court judge for the district in which the facility is located. On receipt of the notice, the governing body must call a special public meeting to consider the defective conditions and to hear the findings and advice of the jail inspector. It then may take proper corrective action to be completed in a reasonable period of time, or it may close down the jail.

If the governing body neither acts to correct the defects nor closes its jail, the Commissioner himself may then order the jail's closing to be effective immediately. Notice of this action must be given to the governing body, the senior regular resident superior court judge, and other responsible officials. The governing body may then appeal this order to the judge, who shall hold a hearing on the issue of whether the local facility had met the required standards on the date of the last inspection. The order may be affirmed, reversed, or modified as the judge deems best.

The Commission believes that, until experience proves otherwise, this enforcement procedure appears to be generally an excellent way of encouraging voluntary compliance with the minimum jail standards. We recommend, however, three slight modifications of the provisions covering the Commissioner's closure order. One would give another judge authority to hear appeals from it; the second would bring the judiciary in at an earlier time, and the third would broaden the court's ability to encourage corrective measures.

As mentioned above, the senior regular resident superior court judge is the only judicial officer authorized to receive notice of the Commissioner's order closing a local jail and the only one who can conduct the hearing at which that order may be appealed. We believe that a second judge should be included with identical authority and suggest for this purpose the superior court judge regularly assigned to the district in which the defective jail is located. This addition would have two useful purposes. The senior regular resident judge may not always be available to hold an expeditious hearing, either through illness or press of other duties. With another informed judge able to perform this function, such delays need not occur. Other instances might arise in which the senior regular resident judge would wish to disqualify himself from hearing an appeal because of a conflict of interests or some other reason. If no other judge were qualified to hear the appeal, it could not take place.

RECOMMENDATION NO. 16:

> We recommend that the regularly assigned superior court judge in each district be authorized to have and to exercise together with the senior regular resident superior court judge in that district the duties and responsibilities now given in G.S. 153-53.1 to the senior regular resident superior court judge.

After each semi-annual inspection of a local detention facility, the inspector sends a written report of his findings to the local governing body and to certain other officials. We believe that this report should also be sent to the judge (or judges, following our Recommendation 16) who receives notice of a jail closing order of the Commissioner of Public Welfare. Two purposes would be served by this provision. The local jail is an inherent part of the judicial system and the senior regular resident

superior court judge, as the highest judicial officer in the district, has the obligation to be aware of a jail's condition and to exercise what authority he has to improve inadequate facilities. In addition, he may become involved in the enforcement mechanism if the jail is subsequently closed by the Commissioner and the order is appealed. With prior knowledge of the defects found by the jail inspector, he would be better prepared to decide the issues presented by the appeal.

RECOMMENDATION NO. 17:

> We recommend that the senior regular resident superior court judge and the regularly assigned superior court judge in each district receive copies of the inspection reports for all detention facilities in their district.

The present enforcement procedure authorizes the presiding judge at the hearing of the governing body's appeal of a closing order of the Commissioner of Public Welfare to affirm, reverse, or modify that order on the issue of whether the local facility had met the required standards at the last inspection of it. The present statute, G.S. 153-53.1, does not specifically permit the judge to suspend the effective date of the Commissioner's order to allow the governing body one last opportunity to submit a plan and a timetable to meet the minimum jail standards. We believe that this alternative of suspension should be included in the statute because it would accomplish what the Commissioner's order does not -- the improvement of the jail within a reasonable period of time. With this specific authority, the court could prevent undue hardship on the local government while ensuring that the State's standards are met.

RECOMMENDATION NO. 18:

> We recommend that the presiding judge in a hearing on the appeal authorized by G.S. 153-53.1 have the explicit authority to suspend the effective date of the order in issue to permit the appellant to submit a satisfactory plan to improve its defective detention facility and to carry out such plan to the satisfaction of the Jail and Detention Service.

3. Elimination of Local Correctional Facilities. Counties now have the authority to establish district prison farms under G.S. 153-199 and houses of correction under G.S. 153-209. These are both correctional facilities which hold persons who would otherwise go into the State correctional system.

As we found in our visits to local jails, rehabilitative programs do not exist below the State level because they require investments in equipment and personnel that are beyond the capacities of local governments. Since rehabilitation is a primary goal of modern penology, persons placed in local correctional facilities are denied the benefits of such programs which operate in State institutions. For this reason, we believe that the State correctional system should be responsible for all persons sentenced to confinement for more than thirty days and that counties should not be able to establish competing correctional facilities.

At the present time, four counties operate houses of correction in the State. Because of their investment in them, they probably should not be obliged to discontinue them involuntarily. But if any of the counties should choose to close down a house of correction, that county should thereafter be subject to the general ban.

RECOMMENDATION NO. 19:

> We recommend that the present statutory authorization for counties to establish district prison farms and houses of correction be repealed and that the operation of new facilities of those types in the future be prohibited.

4. State Assistance for Jail Improvements. The Commission is aware that many localities will have difficulties in meeting the minimum jail standards that are now in effect. Because the General Assembly authorized the standards and an agency of the State will apply and enforce them, we believe that the State is obligated to aid those counties and municipalities which have jails that will require improvements. This aid should be in the form of money appropriated by the General Assembly to be given to local governments on a matching basis, to be determined by the Jail and Detention Service with the approval of the Advisory Budget Commission.

As an initial appropriation for the next biennium, we accept the figure of $434,000 that the Board of Public Welfare is requesting for this same purpose.

RECOMMENDATION NO. 20:

> We recommend that the sum of $434,000 be appropriated by the 1969 General Assembly in the form of grants-in-aid to local governments to assist them in improving their detention facilities to conform to the minimum jail standards or in constructing new facilities in conformity with such standards.

IV. CONCLUSION

The members of this Commission have devoted long hours to developing the findings and recommendations set forth in this Report. We believe that we have met the problems of local detention in North Carolina with proposals that are both constructive and practical within the historical context of this State.

We have generally followed a conservative and cautious approach to the problems that we encountered because we believe that many parts of the present correctional practices are worthy ones. For these, we have sought to strengthen their intent rather than replace them with untried notions of our own. In other areas, we have recognized our lack of time to make proper investigation by urging other, more specialized bodies to take up our cause. In a few instances, also, we have urged changes from present practices when our experience and knowledge convinced us that changes are required. Our hope is that the General Assembly will see fit to adopt our proposals as they are offered, but we recognize that some may be more essential than others.

We urge favorable action by the General Assembly of 1969 for these, our recommendations, because action is needed to continue the process that the General Assembly of 1967 so forcefully began -- to transform our local detention facilities into institutions that truly reflect the progressive and humane character of the citizens of North Carolina.

Appendix

RESOLUTION 53 OF THE 1967 GENERAL ASSEMBLY

A Joint Resolution Creating a Commission to Study Existing Jail Conditions and Related Problems of State and Local Government.

Be it resolved by the Senate, the House of Representatives concurring:

Section 1. There is hereby created a Commission to be known as the Jail Study Commission. The Commission shall consist of two members who shall be appointed by the Governor; two members who shall be appointed by the President of the Senate from the membership of the Senate; two members who shall be appointed by the Speaker of the House of Representatives from the membership of the House; and the Presidents (or their duly designated representatives) of the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, the North Carolina Sheriffs' Association, the North Carolina Police Executives Association and the Medical Society of North Carolina. The Governor shall designate one of his appointees as chairman of the Commission.

Sec. 2. It shall be the duty of the Commission herein created to make a detailed study of existing conditions in local jails and other local confinement and detention facilities in the State with a view to improving the quality of jail administration so that such facilities may provide for the safe custody and humane treatment of offenders and promote their rehabilitation insofar as practicable. The Commission shall also consider the following problem areas: (1) the economic and other practical problems involved in maintaining adequate local confinement facilities under the existing county and municipal jail systems, and possible solutions;

(2) the use of local jails for non-criminal types of persons such as alcoholics, mental patients and children; (3) the proper roles of State and local government in jail administration, including the departmental responsibility for jail inspection, consultation and other services at the state level; (4) lack of adequate juvenile detention facilities for children who are awaiting Juvenile Court action; (5) and such other problem areas as the Commission may identify related to jail administration.

Sec. 3. Immediately after its appointment, the Commission shall meet at a time and place designated by the chairman and shall elect a secretary. The Commission shall meet at such other times as the chairman may designate. The Commission, with the approval of the Governor, is authorized to employ such clerical help and other assistance as it may deem necessary to carry out the purposes for which the Commission is created. Per diem, subsistence and travel allowances incurred by the members of the Commission shall be the same as is allowed State boards and commissions generally. Expenses incurred in the employment of clerical help and other assistance and per diem, subsistence and travel allowances incurred by the members of the Commission shall, with the approval of the Governor and Council of State, be paid out of the State Contingency and Emergency Fund.

Sec. 4. Within one week after the convening of the 1969 Session of the General Assembly, the Commission shall make a report of its findings and recommendations to the General Assembly with respect to all matters relating to the subjects of study herein set forth.

Sec. 5. This Resolution shall be in full force and effect upon its adoption.

In the General Assembly read three times and ratified, this the 23rd day of May, 1967.

69.46